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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/791,284	03/03/2004	Kil-soo Jung	1293.1770	8962

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EXAMINER
HASAN, SYED Y

ART UNIT	PAPER NUMBER
2621	

NOTIFICATION DATE	DELIVERY MODE
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

usptomail@smiplaw.com

	Application No.	Applicant(s)
	10/791,284	JUNG ET AL.
Office Action Summary	Examiner	Art Unit	
	SYED Y. HASAN	2621	

-- *The MAILING DATE of this communication appears on the cover sheet with the correspondence address* --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS,
WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed
  after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any
  earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *25 August 2009*.

2a)☒ This action is **FINAL**.   2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is
closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *5 - 7, 18, 19, 21 - 24 and 27 -30* is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *5 - 7, 18, 19, 21 - 24 and 27 -30* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☒ All   b)☐ Some * c)☐ None of:

      1.☒ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage
application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☒ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☒ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date *8/25/2009 and 10/22/2009*.

4)☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.

5)☐ Notice of Informal Patent Application

6)☐ Other: _____.

DETAILED ACTION
Response to Arguments

1.   Applicant's arguments with respect to claims 5 – 7 and 18, 19, 21 – 24 and 27 -

30 filed on 08/25/2009 have been considered but are moot in view of the new ground(s)

of rejection.

Jung et al (P.N. 2005/0108506), Nonomura et al (P.N. 2003/0108338) and Boyle

(P.N. 2003/0223735) are being replaced with Kato et al (US 2002/0145702) and Yoo et

al (US 7366396). Details regarding this rejection, is discussed below.

Double Patenting

2.   The nonstatutory double patenting rejection is based on a judicially created

doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the

unjustified or improper timewise extension of the "right to exclude" granted by a patent

and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-

type double patenting rejection is appropriate where the conflicting claims are not

identical, but at least one examined application claim is not patentably distinct

from the reference claim(s) because the examined application claim is either anticipated

by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg,* 140

F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman,* 11 F.3d 1046, 29

USPQ2d 2010 (Fed. Cir. 1993); *In re Longi,* 759 F.2d 887, 225 USPQ 645 (Fed. Cir.

1985); *In re Van Ornum,* 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel,* 422

F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington,* 418 F.2d 528, 163 USPQ

644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321 (c) or 1.321(d)

may be used to overcome an actual or provisional rejection based on a nonstatutory

double patenting ground provided the conflicting application or patent either is shown to

be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

3.   Claims 5 - 7 and 18 are provisionally rejected on the ground of nonstatutory obviousness- type double patenting as being unpatentable over claims 1 - 8 copending Application No. 10/921,256. Although the conflicting claims are not identical, and that the claimed language of the present Application is somewhat different from the language recited in claims 1 - 8 of copending Application No. 10/921,256, however, they are not patentably distinct from each other because it is noted that it would have been obvious to one of ordinary skill in the art to recognize that claims 1 - 8 of copending Application No. 10/921,256, would be able to perform the functions of the claimed limitations of the present Application since the limitations recited in the claimed invention of the present Application are also recited in the copending application.

With regard to claim 5, Applicant's attention is directed to claim 1 and 5 of the copending Application No. 10/921,256.

With regard to claims 6, Applicant's attention is directed to claims 2, 6 and 8 of copending Application No. 10/921,256.

With regard to claim 7, Applicant's attention is directed to claims 3, 6 and 8 of the copending Application No. 10/921,256

With regard to claim 18, Applicant's attention is directed to claims 2 and 3 of the copending Application No. 10/921,256

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

4.   Claims 5 - 7 are provisionally rejected on the ground of nonstatutory

obviousness- type double patenting as being unpatentable over claims 1, 3, 6 - 7, of copending Application No. 11/435,872. Although the conflicting claims are not identical, and that the claimed language of the present Application is somewhat different from the language recited in claims 1, 3, 6 - 7, of copending Application No. 11/435,872, however, they are not patentably distinct from each other because it is noted that it would have been obvious to one of ordinary skill in the art to recognize that claims 1, 3, 6 - 7, of copending Application No. 11/435,872, would be able to perform the functions of the claimed limitations of the present Application.

With regard to claim 5, the feature of using a second clock decoding the depacketized sub audio data is present in claims 1 and 3 of the copending Application No. 11/435,872.

With regard to claim 6, the feature of the arrival time clock is present in claim 6 – 7 of the copending Application No. 11/435,872.

With regard to claims 7, Applicant's attention is directed to claim 6 - 7 of copending Application 11/435,872.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

Double – patent rejection is being maintained until the rejection of the present application is resolved.

Claim Rejections - 35 USC § 103

5.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

6.   Claims 5 – 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over
Kato et al (US 2002/0145702) in view of Yoo et al (US 7366396).

        Regarding **claim 5** Kato et al discloses a reproducing apparatus comprising:
a mainstream reproducing unit to reproduce mainstream data including still image data,
using a mainstream arrive time clock which is used to depacketize the mainstream data
and a mainstream system time clock which is used to decode the depacketized
mainstream data (fig 96, paras 0435 to 0439 illustrates mainstream data) and
a sub audio reproducing unit to reproduce sub audio data separately added into the
mainstream data, using a sub audio arrival time clock which is used to depacketize the
sub audio data and a sub audio system time clock which is used to decode the
depacketized sub audio data (fig 96, paras 0435 to 0439 illustrates audio data)
        However Kato does not disclose independent clocks for mainstream and audio
data.
        On the other hand Yoo et al teaches independent clocks for mainstream and
audio data (fig 1, col 3, lines 20 – 45 illustrate independent clock/counters)
        It would have been obvious to one of ordinary skill in the art at the time of the
invention to incorporate independent clocks for mainstream and audio data as taught by
Yoo et al in the system of Kato et al in order to provide multi-channel stream effectively.
        Regarding **claim 6** Kato et al discloses the apparatus, wherein:
the mainstream reproducing unit comprises:
a mainstream depacketizer that depacketizes the mainstream data, and a
mainstream ATC counter which is used in depacketizing the mainstream data with the

mainstream depacketizer; and the sub audio reproducing unit comprises: a sub audio

depacketizer that depacketizes the sub audio data, and a sub audio ATC counter which

is used in depacketizing the sub audio data with the sub audio depacketizer (fig 96,

paras 0435 to 0439 illustrates mainstream data and audio data together with

depacketizer)

 Regarding **claim 7** Kato et al discloses the apparatus, wherein:

 the mainstream reproducing unit further comprises:

 a mainstream decoder that decodes the mainstream data output from the

mainstream depacketizer, and a mainstream STC counter that provides a clock used in

decoding the mainstream data with the mainstream decoder; and the sub audio

reproducing unit further comprises: a sub audio decoder that decodes the sub audio

data output from the sub audio depacketizer, and a sub audio STC counter that

provides a clock used in decoding the sub audio data with the sub audio decoder (fig 1,

27, paras 0143 illustrates both mainstream and audio decoder together with

depacketizer)

7. Claims 18, 19, 21 - 24 and 27 - 30 are rejected under 35 U.S.C. 103(a) as

being unpatentable over Yoo et al (US 7366396) in view of Kato et al (US

2002/0145702)

 Regarding **claim 18** Yoo et al discloses a reproducing apparatus reproducing

video and audio data streams recorded on a recording disc (fig 1, 100, col 3, lines 20 –

45, recording medium (hd - dvd)) comprising:

 a first reproducer reproducing a first data stream based on first counters (fig 1,

14) and a second reproducer reproducing a second data stream based on second

counters (fig 1, 24)

wherein the first counters comprise a first a first system time clock counter, and the second counters comprise a second system time clock counter which are initialized based on program clock reference information in the first and second data stream (fig 1, col 3, lines 20 - 45 and fig 5, col 5, lines 50 – 67)

However Yoo does not disclose an arrival time clock.

On the other hand Kato et al teaches arrival time clock (fig 96, paras 0435 to 0439)

It would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate arrival time clock as taught by Kato et al in the system of Yoo et al in order to maintain continuity of moving pictures in the playback domain.

Regarding **claim 19** Yoo et al discloses the apparatus, wherein when the first and second counters are independently adjusted without affecting each other (fig 1, col 3, lines 20 – 45, two clock counters 14 and 24 generating individual clock)

Regarding **claim 21** Yoo et al discloses the apparatus (see claim 18 above) except for the first reproducer comprises:

a first buffer which captures the first data stream; a first source depacketizer which depacketizes the first data stream based on a count of the first arrival time clock counter; and a demultiplexer which demultiplexes the depacketized first data stream; and a first decoder decoding the demultiplexed first data stream based on a count of the first system time clock counter.

However Kato et al teaches a first buffer which captures the first data stream; a first source depacketizer which depacketizes the first data stream based on a count of the first arrival time clock counter; and a demultiplexer which demultiplexes the

depacketized first data stream; and a first decoder decoding the demultiplexed first data stream based on a count of the first system time clock counter (fig 96, paras 0435 to 0439)

It would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate a first buffer which captures the first data stream; a first source depacketizer which depacketizes the first data stream based on a count of the first arrival time clock counter; and a demultiplexer which demultiplexes the depacketized first data stream; and a first decoder decoding the demultiplexed first data stream based on a count of the first system time clock counter as taught by Kato et al in the system of Yoo et al in order to maintain continuity of moving pictures in the playback domain.

Regarding **claim 22** Yoo et al discloses the apparatus (see claim 18 and 21 above) except for wherein the first data stream comprises mainstream data, and the second data stream comprises sub audio data.

However Kato et al teaches the first data stream comprises mainstream data, and the second data stream comprises sub audio data (fig 96, paras 0435 to 0439)

It would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate the first data stream comprises mainstream data, and the second data stream comprises sub audio data as taught by Kato et al in the system of Yoo et al in order to maintain continuity of moving pictures in the playback domain.

Regarding **claim 23** Yoo et al discloses the apparatus (see claim 18 - 22 above) except for wherein the mainstream data comprises still image data

However Kato et al teaches the mainstream data comprises still image data (para 0187, still image data)

It would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate the mainstream data comprises still image data as taught by Kato et al in the system of Yoo et al in order to maintain continuity of moving pictures in

the playback domain.

Regarding **claim 24** Yoo et al discloses the apparatus (see claim 18 - 22 above) except for wherein the mainstream data comprises a browsable slide show

However Kato et al teaches the mainstream data comprises a browsable slide show (para 0187, select view based on a cursor)

It would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate the mainstream data comprises a browsable slide show as taught by Kato et al in the system of Yoo et al in order to maintain continuity of moving pictures in the playback domain.

Regarding **claim 27** Yoo et al discloses the apparatus (see claim 18 and 21 above) except for wherein the second reproducer comprises:

a second buffer which captures the second data stream; a second source depacketizer which depacketizes the second data stream based on a count of the second arrival time clock counter; a second decoder decoding the depacketized second data stream based on a count of the second system time clock counter.

However Kato et al teaches wherein the second reproducer comprises:
a second buffer which captures the second data stream; a second source depacketizer which depacketizes the second data stream based on a count of the second arrival time clock counter; a second decoder decoding the depacketized second data stream based on a count of the second system time clock counter (fig 96, paras 0435 to 0439 illustrates the function of the second reproducer combined in one)

It would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate wherein the second reproducer comprises: a second buffer which captures the second data stream; a second source depacketizer which depacketizes the second data stream based on a count of the second arrival time clock counter; a second decoder decoding the depacketized second data stream based on a

count of the second system time clock counter as taught by Kato et al in the system of

Yoo et al in order to maintain continuity of moving pictures in the playback domain.

Regarding **claim 28** Yoo et al discloses the apparatus (see claim 18, 21 and 27

above) except for wherein the first data stream comprises mainstream data, and the

second data stream comprises sub audio data

However Kato et al teaches the first data stream comprises mainstream data,

and the second data stream comprises sub audio data (fig 96, paras 0435 to 0439)

It would have been obvious to one of ordinary skill in the art at the time of the

invention to incorporate the first data stream comprises mainstream data, and the

second data stream comprises sub audio data as taught by Kato et al in the system of

Yoo et al in order to maintain continuity of moving pictures in the playback domain.

Regarding **claim 29** Yoo et al discloses the apparatus, wherein the second data

stream comprises sub audio data which is reproduced regardless of the first data

stream reproduction (fig 1, col 3, lines 20 - 45 and fig 5, col 5, lines 50 – 67)

Regarding **claim 30** Kato et al discloses the apparatus, wherein the second data

stream is separately added to the first data stream on the recording disc (fig 1, col 3,

lines 20 - 45 and fig 5, col 5, lines 50 – 67)

Conclusion

8.   Applicant's amendment necessitated the new ground(s) of rejection presented in

this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP

§ 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37

CFR 1.136(a).

9.   The prior art made of record and not relied upon is considered pertinent to

applicant's disclosure

Nonomura et al (P.N. 2003/0108338) discloses optical disk, reproduction apparatus, reproduction method, and recording medium

Kashiwaga et al (US 6470460) discloses method and an apparatus for reproducing bit-stream having non-sequential system clock data seamlessly there between

Any inquiry concerning this communication or earlier communications from the examiner should be directed to SYED Y. HASAN whose telephone number is (571)270-1082. The examiner can normally be reached on 9/8/5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thai Tran can be reached on 571-272-7382. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/S. Y. H./
10/16/2009

/Thai Tran/
Supervisory Patent Examiner, Art Unit 2621